

N1623(2460)

Honorable Craig Thomas
United States Senate
Washington, D.C. 20510

Dear Senator Thomas:

We are pleased to provide you with suggested language to be used in developing your response to Senator Craig's and Mr. Jim O'Toole's questions involving wilderness management within the Grand Canyon National Park. The questions and our recommended response includes:

Question 1: By what authority does the NPS administer and protect "potential" wilderness areas in a manner similar to designated wilderness?

The authority of the Secretary of the Interior to establish rules and policies directing the administration of the National Park Service (NPS), including the administration of wilderness areas, is provided by the NPS Organic Act of 1916 (16 U.S.C. 1-410) as follows:

SUBCHAPTER I - NATIONAL PARK SERVICE

SECTION 3. Rules and regulations of national parks, reservations, and monuments; timber; leases

The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the NPS.

The authority for the NPS to manage and protect "potential" wilderness (and, by implication "recommended wilderness," "proposed wilderness," and "wilderness study/suitable areas") in the same manner as it protects "designated" wilderness is provided by the Wilderness Act of 1964 (P.L. 88-577, 78 Stat.890; 16 U.S.C. 1 121, 1 1 31-1136) as it instructs the Federal agencies to inventory, protect, and recommend to the Congress lands within their jurisdiction which might qualify for inclusion within the National Wilderness Preservation System. Specifically, these references include:

SECTION 2. "For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as

“wilderness areas” and these shall be administered for the use and enjoyment of the American people in such manner as will leave them **unimpaired for future use and enjoyment as wilderness,**” . . . (emphasis added)

SECTION 3(2)(c) “Within 10 years after the effective date of this Act the Secretary of the Interior shall review every roadless area of 5,000 contiguous acres or more in the national parks, monuments, and other units of the national park system . . . and shall report to the President his recommendation as to the suitability or nonsuitability of each such area . . . **for preservation as wilderness.**” (emphasis added)

SECTION 4. (a) “The purposes of this Act are hereby declared to be within and **supplemental** (emphasis added) to the purposes for which . . . units of the National Park System are established and administered and . . . ”

SECTION 4. (b) “Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and **shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character.**” (emphasis added)

Further instructions for the NPS to protect lands which qualify for wilderness designation are included in the **1988 National Park Service Management Policies** handbook. These references include:

Chapter 6. WILDERNESS PRESERVATION AND MANAGEMENT

WILDERNESS REVIEWS

The NPS will continue to review areas that qualify for wilderness study, consistent with provisions of the Wilderness Act and subsequent legislation directing that wilderness studies be made.

Potential Wilderness A wilderness review may identify lands that are surrounded by and adjacent to lands proposed for wilderness designation but that do not themselves qualify for immediate designation due to temporary incompatible conditions. The legislative proposal may recommend these for future inclusion in wilderness when the incompatible condition has been removed.

WILDERNESS MANAGEMENT

General Policy For the purposes of applying NPS wilderness policies, the term “wilderness” includes the categories of *designated, potential, recommended, study areas,* and *suitable wilderness* and these policies apply regardless of category.

The NPS will manage areas of potential wilderness as wilderness, to the extent that existing nonconforming uses will allow, and will seek to eliminate the temporary conditions that preclude wilderness designation.

Discussion: *Wilderness study areas, proposed wilderness, recommended wilderness, and potential wilderness* are classifications used to identify the administrative stages a tract of land progresses through in moving from qualified park property to final wilderness designation. While this process can sometimes be lengthy, it is in keeping with the instructions of the Wilderness Act for agencies to inventory and make recommendations to the President as to which of their lands should be included within the National Wilderness Preservation System.

When the Congress establishes potential wilderness, it is essentially stating that the area in question meets wilderness standards but recognizes the existence of nonconforming uses, such as roads, valid mining claims, private inholdings, or combinations of these elements which prevents the immediate designation of the areas as wilderness. Because the lands otherwise meet the test of wilderness, the Congress sometimes provides the agency with the authority to declare the area as designated wilderness once the nonconforming use has been extinguished.

Question 2: By what authority does the NPS allow the continued use of motorized rivercraft within the potential wilderness of the Colorado River within Grand Canyon National Park?

The Wilderness Act (P.L. 88-577, 78 Stat.890; 16 U.S.C. 1121, 1131-1136) addresses the issue of commercial tours and motorized equipment use in the following section:

SECTION 4 (c). “Except as specifically provided for in the Act, and subject to existing private rights, there shall be no commercial enterprises and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purposes of this Act (including measure required in emergencies involving the health and safety of persons within the area) there shall be no temporary road, **no use of motor vehicles, motorized equipment or motorboats**, no landing of aircraft, no other form of mechanical transport, and no structure of installation within any such area.” (emphasis added)

The 1988 National Park Service Management Policies handbook references the use of motorized equipment in the following sections:

General Policy

Activities to achieve all other statutory purposes of an area designated as wilderness will be carried out in accordance with applicable provisions of the Wilderness Act so as to preserve wilderness resources and character.

Management Techniques

The Wilderness Act generally prohibits motorized equipment or mechanized transport in designated wilderness areas; however, it allows them “as necessary to meet minimum requirements for the administration of the area for the purpose of this Act.”

Administrative use of motorized equipment or mechanical transport, including motorboats and aircraft, will be authorized in accordance with the park’s wilderness management plan only (1) if determined by the superintendent to be the minimum tool needed by management to achieve the purposes of the area, or (2) in emergency situations involving human health or safety of the protection of wilderness values.

Discussion: The Colorado River corridor within Grand Canyon National Park was identified as “potential” wilderness by the NPS in a 1977 recommendation to be forwarded to the President. The recommendation for “potential” wilderness, instead of “designated” wilderness, was made in recognition of the fact that the existing use of motors on the rivercraft used by concession tour operators, and some private groups, was in direct conflict with the letter and spirit of the Wilderness Act. The park’s 1977 wilderness proposal is still pending at the Department of the Interior.

Prior to the 1977 wilderness proposal, the park accommodated the relatively small numbers of motor and oar-powered float trips using the river. By the time of the wilderness proposal, it was becoming obvious that the use of the river by rafters was undergoing exponential growth. Use levels have increased from a 1964 total of 550 people floating the river to 12,500 people (totaling 104,731 user days) floating the river during 1996.

Subsequent to the wilderness proposal, the continued use of motorized rivercraft within the potential wilderness has continued as a source of controversy between those who maintain that the Colorado River corridor should be managed in keeping with the precepts of wilderness, i.e., no motorized equipment, and those who maintain that motors should be allowed, even within wilderness.

In 1980 the NPS released a draft Colorado River Management Plan, and an environmental impact statement in response to the documented deterioration of the river corridor’s natural resources caused by human use patterns. This plan established wilderness based goals and visitor use levels which were in keeping with the capacity of the natural resources to absorb this use without damage. The plan also called for the phased removal of motors from the potential wilderness corridor by 1985, except that needed for administrative purposes, and recommended inclusion of the Colorado River corridor as “designated” wilderness.

The motorized river tour operators actively opposed the 1980 plan, based primarily on the belief that the removal of motors and proposed lowered use levels would adversely impact their businesses and cause them significant economic hardships. In response to this opposition, the Congress attached an amendment to the 1981 Department of the Interior appropriations bill which prohibited the expenditure of any appropriated funds “for the implementation of any

management plan for the Colorado River within Grand Canyon National Park which reduces the number of user days or passenger launches for commercial motorized watercraft excursions.”

In 1989 the NPS issued a revision of the 1981 Colorado River Management Plan which essentially removed all references to wilderness and increased commercial use levels by approximately 30 percent. The park continues to manage the river corridor under the auspices of the 1989 Colorado River Management Plan. Although this document did not provide a rationale to explain the incongruity of motorized rivercraft being used within the river corridor’s potential wilderness designation.

We can only state that the 1989 Colorado River Management Plan was developed in response to the perceived regional political environment at that time. The plan, however, is clearly contrary to the instructions provided by the Wilderness Act and the NPS own management policies concerning the use of motorized equipment within wilderness and the responsibility of the agency to administer potential wilderness areas so as not to degrade their wilderness values.

We are acutely aware of the dilemma of continuing the use of motorized equipment in potential wilderness and have consequently authorized the preparation of a revised Colorado River Management Plan which will attempt to bring the NPS back into compliance by addressing wilderness management responsibilities and the need to accommodate the public within this world class resource. The draft plan is slated to be released for public review by the year 2000.

Sincerely,

Robert Stanton
Director

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